

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: Mostafa, M. CONF. NO. 7123
SERIAL NO.: 09/920,910 ART UNIT: 2142
FILING DATE: 08/02/2001 EXAMINER: Meucci, M. D.
TITLE: A COMMUNICATION SERVICE
ATTORNEY DOCKET NO.: 836-010509-US (PAR)

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Commissioner of Patents
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

I. INTRODUCTION

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

Reconsideration of the rejection of the claims is respectfully solicited in light of the following remarks.

II. REMARKS

1. Claims 21-59 are patentable over the combination of Luzeski et al. (US 6,430,177, "Luzeski"), Parasnis et al. (US 6,728,753, "Parasnis"), and Broussard (US 6,269,483).

The combination of Luzeski, Parasnis, and Broussard fails to disclose or suggest using a message server to receive content including a streamable media component and information describing the streamable media component, sending the information describing the streamable media component from the messaging server to a recipient wireless terminal, and forming a streaming session between the messaging server and the recipient wireless terminal, using the information describing the streamable media component, wherein the streamable media component is constructed to be presentable to a recipient while the streamable media component is being transmitted from the messaging server to the recipient wireless terminal, or while a wireless messaging device is receiving the

streamable media component, as substantially recited by claims 21, 37, 45, 47, 48, 55, and 59.

1.1. Luzeski fails to disclose or suggest receiving a streamable media component, constructed as defined in the claims.

On page 5, line 4 of the 11 April 2006 Action, the Examiner correctly points out that Luzeski fails to disclose that the streamable media component is constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal, or while being received by a wireless messaging device.

Because the streamable media component is explicitly defined as being presentable to a recipient while being transmitted as recited, Luzeski then does not disclose receiving such a streamable media component.

On page 10 of the Final Action of 13 September 2006, the Examiner states that while Luzeski fails to teach streaming the streamable component, it does teach receiving the streamable component.

Applicant disagrees because there is no disclosure in Luzeski that the media component is constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal, or while being received by a wireless messaging device, thus Luzeski in fact, does not disclose receiving a streamable component, as defined by the claims.

Luzeski mentions streaming of voice and fax data into and out of a voice/fax Store 10-9, Luzeski explicitly states that “After all the segments are received, the plug-in plays the voice data.” Thus, according to Luzeski, a plug-in reproduces data at the receiver end only after complete reception of the entire message. After the receiving user has clicked, for example, a voice message to open it, only after all segments of the voice mail have been transferred will the plug-in in the receiving end play back the voice mail.

In contrast, the present claims explicitly define a streamable media component as constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal, or while being received by a wireless messaging device. There is no disclosure related to such a component in Luzeski.

Luzeski also fails to disclose receiving information describing a streamable media component constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal, or while being received by a wireless messaging device, and sending the information describing the streamable media component from the messaging server to a recipient wireless terminal.

As argued above, the streamable media component in the present claims is explicitly defined as constructed to be presentable to a recipient while being transmitted from a server to a recipient wireless terminal. The Examiner clearly states that Luzeski fails to disclose such a streamable media component. Therefore, it would be impossible for Luzeski to disclose or suggest information describing a streamable media component constructed as defined in the claims.

Column 5, lines 47-52 of Luzeski, cited by the Examiner, describe receiving and managing content and information from content providers. However, there is nothing in this section, or anywhere else in Luzeski related to a streamable media component, constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal, or while being received by a wireless messaging device, and nothing related to information describing such a streamable media component.

Column 11, lines 35-39 of Luzeski, also cited by the Examiner, describe returning message header fields, message body and attachment details to a caller. Column 20, lines 7-29, cited by the Examiner, describe a "View Inbox" transaction flow that presents a message header list to a subscriber. However, there is nothing in these sections related to sending information describing a streamable media component constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal, or while being received by a wireless messaging device.

1.2. Parasnis fails to disclose or suggest forming a streaming session between the messaging server and the recipient wireless terminal using the information describing the streamable media component.

On page 3, line 22 of the 11 April 2006 Action, the Examiner correctly points out that Luzeski fails to disclose this feature. The Examiner argues that Parasnis discloses streaming and that it would be obvious to form a streaming session using the information

describing the streamable media component. The Examiner further argues that the information describing the streamable media component is taught by Luzeski.

Applicant respectfully notes that as mentioned above, Luzeski fails to disclose that the streamable media component is constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal, or while being received by a wireless messaging device.

For this reason, Luzeski cannot teach information describing a streamable media component, when the streamable media component has been defined as constructed to be presentable to a recipient while being transmitted from a messaging server to a recipient wireless terminal, or while being received by a wireless messaging device.

Therefore, the information describing the streamable media component is clearly not taught by Luzeski, and Parasnis fails to disclose or suggest forming a streaming session between the messaging server and the recipient wireless terminal using the information describing the streamable media component.

Thus, for all the reasons asserted above, the combination of Luzeski, Parasnis, and Broussard fails to disclose or suggest all the features of Applicant's independent claims.

Furthermore, Applicant respectfully submits that there is no suggestion or motivation to combine Luzeski, Parasnis, and Broussard. Applicant finds no suggestion in the nature of the problem to be solved, in the references themselves, or in the knowledge generally available to one of ordinary skill in the art to modify or combine the references.

Luzeski is directed to a capturing and providing multiple message types through a web based messaging system. In contrast, Parasnin discloses preserving bandwidth by providing slides ahead of time before a netshow presentation. In further contrast, Broussard is concerned with limiting the transmission of high bandwidth data when a video conference participant is no longer speaking. Thus, the nature of the problems to be solved by the references are all notably different and do not suggest such a combination.

Further, there is no suggestion in any of the references of such a combination at least because the references are directed to diverse subject matter. Luzeski discloses a global inbox for various message types and has no disclosure related to streaming content to a user. While both Parasnis and Broussard are directed to conferencing, Parasnis provides


some content ahead of time that is controllable during the conference, while Broussard controls a video stream based on an audio level.

In addition, combining the references makes at least Luzeski unfit for its intended purpose. It is known that live conferencing requires streaming over reasonably fast and reliable links. It is also known that wireless messaging is prone to data transmission errors. The downloading of all data and then presentation in Luzeski allows for retransmission and utilization of off peak transmission which provides for correction of transmission errors and is advantageous in messaging. If Luzeski were somehow combined with Parasnis and Broussard to provide streaming, this would only introduce presentation errors to the point where messaging would be unusable.

Therefore, for all the reasons stated above, the combination of Luzeski, Parasnis, and Broussard fails to render the claims unpatentable.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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13 Dec 2006
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